

Senate Engrossed

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

CHAPTER 84

# **SENATE BILL 1285**

AN ACT

AMENDING SECTION 6-137, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT  
OF FINANCIAL INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-137, Arizona Revised Statutes, is amended to  
3 read:

4 6-137. Cease and desist orders; injunctions; public inspection

5 A. If it appears to the superintendent that any person has engaged, is  
6 engaging or is about to engage in any act, practice or transaction which  
7 constitutes a violation of this title or any rule or order of the  
8 superintendent or a violation of any federal insurance regulation as  
9 determined by the appropriate federal regulatory authority in writing, the  
10 superintendent may issue an order directing the person and directors,  
11 officers, employees and agents of the person to cease and desist from  
12 engaging in the act, practice or transaction or doing any act in furtherance  
13 of the act, practice or transaction and to take appropriate affirmative  
14 action, within a reasonable period of time as prescribed by the  
15 superintendent, to correct the conditions resulting from the act, practice or  
16 transaction.

17 B. If it appears to the superintendent that any financial institution  
18 or enterprise or any officer, director, employee, agent or other person  
19 participating in the conduct of the affairs of the financial institution or  
20 enterprise has engaged, is engaging or is about to engage in any act,  
21 practice or transaction which constitutes an unsafe or unsound practice or a  
22 violation of any order of the superintendent, applicable law or rule, written  
23 agreement entered into with the superintendent or condition imposed in  
24 writing by the superintendent in connection with the granting of any  
25 application or other request by the financial institution or enterprise, the  
26 superintendent may issue an order directing the financial institution or  
27 enterprise or any director, officer, employee, agent or other person  
28 participating in the conduct of the affairs of the financial institution or  
29 enterprise to cease and desist from engaging in the act, practice or  
30 transaction or doing any act in furtherance of the act, practice or  
31 transaction and to take appropriate affirmative action, within a reasonable  
32 period of time as prescribed by the superintendent, to correct the conditions  
33 resulting from the act, practice or transaction.

34 C. An order issued by the superintendent under this section becomes  
35 effective at the time of service and remains effective and enforceable except  
36 to the extent that it is stayed, modified, terminated or set aside by the  
37 superintendent or a reviewing court pursuant to this article.

38 D. A person aggrieved by an order issued by the superintendent under  
39 this section may request a hearing pursuant to title 41, chapter 6, article  
40 10. After requesting a hearing, the person may move that the order be stayed  
41 or modified pending the hearing. If the order is not stayed or modified or  
42 the motion is not acted on within ten days, the person may apply to the  
43 superior court for an order for relief.

1 E. If it appears to the superintendent that a person has engaged, is  
2 engaging or is about to engage in an act, practice or transaction which  
3 constitutes a violation of this title or any rule or order of the  
4 superintendent or a violation of any federal insurance regulation as  
5 determined by the appropriate federal regulatory authority, the  
6 superintendent may apply to the superior court in Maricopa county for any of  
7 the following:

8 1. An injunction enjoining the person from engaging in the act,  
9 practice or transaction or from doing any act in furtherance of the act,  
10 practice or transaction, and upon a showing by the superintendent that the  
11 person has engaged, is engaging or is about to engage in an act, practice or  
12 transaction in violation of this title, any other applicable law or any rule  
13 or order of the superintendent the court shall grant without bond a temporary  
14 restraining order, preliminary injunction or permanent injunction.

15 2. An order granting additional relief as may be available under this  
16 title.

17 F. The court shall give an action brought pursuant to this section  
18 precedence over all other civil actions.

19 G. AN ORDER THAT IS ISSUED BY THE SUPERINTENDENT UNDER THIS SECTION TO  
20 A PERSON, FINANCIAL INSTITUTION OR FINANCIAL ENTERPRISE THAT HAS ENGAGED OR  
21 IS ENGAGING IN A VIOLATION THAT RELATES TO UNLICENSED ACTIVITY SHALL BE OPEN  
22 TO PUBLIC INSPECTION.

APPROVED BY THE GOVERNOR APRIL 28, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2008.

Passed the House April 21, 20 08,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

[Signature]  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

Passed the Senate March 13, 20 08,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

Timothy S. Ree  
President of the Senate

Charmian Bullington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

22nd day of April, 2008,

at 2:15 o'clock P. M.

Wendy Upbarra  
Secretary to the Governor

Approved this 28 day of

April, 2008,

at 10:15 o'clock A. M.

[Signature]  
Governor of Arizona

S.B. 1285

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 28 day of April, 2008,

at 1:35 o'clock P. M.

Janice K. Brewer  
Secretary of State